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LAW AND THE INTERNET

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The manual is devoted to the legal issues of using the international global Internet. The system of basic concepts of the Network is given. The normative acts regulating legal relations on the Internet are given.

Designed for students and teachers of law schools, and may also be of interest to a wide range of Web users.

INTRODUCTION

The level of development of computer technology allows you to control the user's movement through networks, purchases in stores, with whom he communicates and what he says. There is a danger that all spheres of human life will be under complete control.

It turns out that the author of the Melissa computer virus, which has infected hundreds of thousands of computers, was identified by a unique code built into the Microsoft Office software. This code is automatically written to each text document created. Only the scandal that broke out forced the manufacturers to turn off the “unique code”.

If you install a traffic tracking program (Norton for Your Eyes Only) on your computer, it will become clear that approximately 0.5-1% of packets with information are sent "to nowhere", that is, programs on your computer initiate the exchange of information with no one on their own. well-known sites (collection points). There is a real possibility of leakage of important information.

Tracking systems for information in computer and telephone networks (and now mobile phones include means of accessing the Internet) -
common occurrence.

In Russia, such a system is called COPM (System of Operative Investigative Measures) and its existence gives rise to many legal problems. It allows you to access personal mail and the list of sites of any Internet visitor.

In the US, all private and government communications are intercepted by telephone, fax, or e-mail. The Echelon system intercepts about 100 million messages sent via satellites and the Internet every month. Like SORM, Echelon finds the necessary messages by keywords, and the information obtained is most often used not to detect criminals, but for industrial espionage. An example of this is the case of failure to receive a large order by the French company Thomson, when, as a result of interception of information, competitors became known.

there her commercial proposals.

There are problems in the use of mobile telephones, where

The list of services provided is constantly expanding.

For example, the Swiss company Swisson recorded the movements of a million mobile phones in six months. At the same time, it is known exactly who is with whom. met, and how long the meeting took place, the movement of the subscriber is monitored, because the handset regularly sends an availability signal to the network.

After the introduction of magnetic cards in the Moscow metro, the computer was able to record all movements, and after that it is planned to introduce a single transport card that transmits information to computer networks.

Surveillance cameras have become especially popular recently (about 200,000 video cameras have been installed in public places in the UK alone). They are equipped with pan, zoom in/out and infrared functions. A system is being prepared for implementation that allows identifying a person in a database of tens of thousands of images in a few seconds. Approbation of technologies based on retinal scanning, hand geometry, voice recognition and color photographs has already begun. In Russia, such methods are planned to be introduced so far only in the banking sector.

Such actions immediately give rise to many legal problems, where a clear delimitation of the interests of the individual and the state is necessary.

The most controversial is the technology of identification by DNA. The police in some countries (USA, Germany, Canada) are working on the creation of DNA databases. With the creation of such databases, the question of protecting the right to privacy guaranteed by the Constitution immediately arises.

These problems of the Internet, or rather problems in the field of telecommunications, require close attention and resolution.

On the other hand, law enforcement agencies, being the subject of information exchange and the user of the international Internet network, can effectively use such technologies in the investigation of crimes.

Here, specific problems arise in the application of the norms of criminal law. procedural law with the use of telecommunications.

Despite the incredible resources of Internet bandwidth, information remains "locked" in centralized databases, access to which can be controlled. A new, more advanced generation of software systems is being developed that combines computing and communication in a revolutionary way. Instead of pages that represent only "images" of data, a new standard is beginning to be applied, opening up information for structuring, editing, and programming procedures for processing it.

Further understanding of the legal problems of the Internet requires a presentation of the basic concepts, principles of construction and capabilities of the international global Internet.

BASIC CONCEPTS, CONSTRUCTION PRINCIPLES AND CAPABILITIES OF THE GLOBAL INTERNET NETWORK

Historical overview

The Internet originated from the defense project (ARPANET) of the late 1960s, aimed at creating a communications network capable of functioning in a nuclear war.

The most important requirement for the quality of the network was the lack of a single control center, in such a network one computer is no more important than any other.

An important event in the history of the Internet was the creation of a single standard for communications TCP / IP Transmission Control Protocol (Internet Protocol), which allowed different networks to connect with each other. It was thanks to this TCP / IP protocol that the "network of networks" - the Internet - was created.

Another important event in the history of the Internet was the creation of the "World Wide Web" (World Wide Web, or www, or w3). A new method for transmitting and displaying information (Hypertext Transfer Protocol) has been developed.

The concept of hypertext, which underlies the World Wide Web, is this is a multidimensional text, i.e. such an organization of documents in which one document or text can include multidirectional links, pointers or addresses (they are called hypertext) to other documents and links. Hypertext is in many cases the only way to meaningfully examine a document. The development of the idea of hypertext is reflected in a new form of document organization - hypermedia technology, which allows you to link not only words, but also pictures, sounds or files of any

type that can be stored in a computer.

Let's give a general idea of the structure of the Internet, which is necessary for understanding the basic principles of this network.

Structure of the Internet

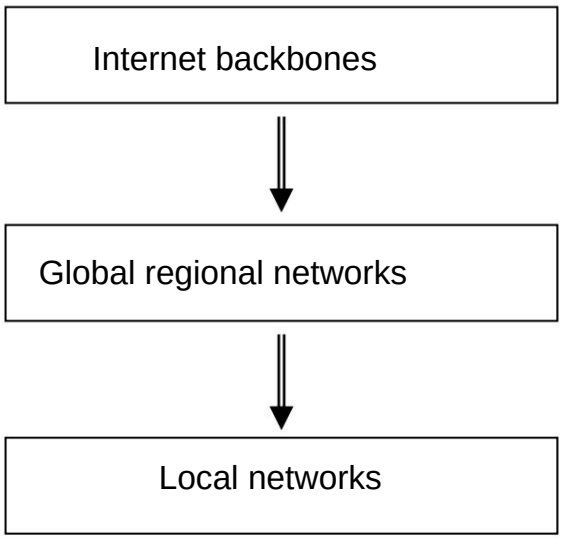
A computer network is a set of computers linked together to process data together. Computer networks are divided into local and global.

Local networks unite computers located in the same room or building, and global networks unite local networks or individual computers that are more than 1 km away.

The Internet is a worldwide computer network consisting of a variety of computer networks, united by standard agreements on how to exchange information and a single addressing system.

The unit of the Internet is a local computer network, the totality of which is united by some regional (global) network (departmental or commercial). At the highest level, regional networks are connected to one of the so-called backbone networks of the Internet. (In fact, regional networks can be interconnected without access to the core network.)

Wired lines are used as connecting lines on the Internet.
communication lines, fiber optic, radio and satellite communications, etc.



Generalized structure of the Internet

There is a certain analogy between the highway map and the topology of the Internet, which resembles a map of roads, railroads, and air travel. Internet protocols comply with shipping regulations; addressing system - traditional postal addresses; highways - communication channels between networks on the Internet.

Internet Addressing

Just like the address of the house in the postal service, the address of every computer on the Internet must be uniquely determined.

To record addresses, two equivalent formats are used IP (IP) and DNS - addresses.

Internet IP addresses (IP number)

The unique code of a computer on the Internet (IP-number) consists of four numbers with values from 0 to 255, separated by dots (xxx.xxx.xxx.xxx.). This numbering scheme allows you to have more than four billion coms in the network.
puthers.

When a local network or a separate computer joins the Internet for the first time, a special organization (provider) assigns an IP address to them
number, ensuring its uniqueness and correct connection.

The beginning of the address defines the network on which the addressed computer is located, and the rightmost block defines the computer on that network. Internet knows where search for the specified network, and the network knows where this computer is located.

Internet DNS addresses

For convenience, in addition to digital addresses, computers on the Internet are assigned their own names. In this case, as well as in the case of IP addresses, the uniqueness of this name is required.

For this purpose, a special addressing system was created - the domain name system (Domain Name System) or abbreviated DNS.

The DNS address contains letters instead of numbers, separated by dots into separate information blocks (domains).

The first name in the DNS address is the name of the real computer with the IP address. Yes The addresses of the domains that the computer belongs to follow sequentially up to the country domain (two-letter encoding is adopted for them). For example, duma.ru: duma is the domain name of the State Duma, ru is the country of Russia, similarly to mvd.ru. Here we have a situation similar to the assignment of geographical names and the organization of postal addresses.

When a DNS address is used, the computer sends a query to the DNS server that has the appropriate database, the DNS server starts processing the name from the right end to the left, gradually narrowing the search, determining the IP
address.

Thus, by the DNS name, you can determine the equivalent IP
address.

Transfer of information on the Internet

The Internet is a packet-switched network, which is fundamentally different from the telephone network. The various networks that make up the Internet are interconnected by means of special communication computers called nodes or routers.

Having received a packet of information from one network, this communication computer, using routing tables, determines the best option for transmitting the packet and transmits it to another network. Thus, a complete message, divided into packets of information, can be transmitted by different routes. If any section of one of the networks fails, then the data will be transmitted via a bypass path. With this organization, the structure of the Internet looks like thousands of computer networks connected by routers.

This is how computer networks interact with each other. However, most users cannot afford a direct connection due to the high cost, so to access the Internet, you need to have a modem that connects to the regular telephone network. Using a special program, the user launches a modem, which is connected via a telephone line to a modem located on a computer connected to one of the Internet networks.

The latter answers the call and connects your computer to the Internet. The described method of connection is called session. Its advantages are availability, low equipment costs, relatively low cost of connection fees and operating time, disadvantages are the need to call the provider every time, low communication speed, one-way access.

A permanent connection can be implemented on a dedicated telephone line; over a digital telephone line; via a digital communication channel; over the air using a radio modem; via satellite communications. Advantages - in high speed and reliability of communication, the disadvantages are mainly related to the high cost.

Internet resources

Email

One of the most common Internet services is e-mail. As the name implies, this is a method of transmitting mail messages (letters) electronically. With its help, you can send a message to any part of the world in no more than a day. This time depends on the transmission method used. To send messages by e-mail, only one thing is needed - the address of the recipient (E-mail address).

The concept of "message" of e-mail is interpreted from a few lines of text to fully formed voluminous documents, including graphic illustrations.

The procedure for receiving a message by e-mail resembles poste restante correspondence: the letter received at your E-mail address is stored on the provider's computer.

When a connection is established and credentials (password) are presented, all messages will be transferred to your computer.

network news

Another useful resource is online newsgroups (Usenet). A teleconference is a kind of magazine that publishes letters from readers, and anyone can become the author of letters. An average Internet user has access to 2-3 thousand different teleconferences, and there are about 10 thousand in total.

thousand Typically, access to Usenet news is in subscription mode, i.e. the user sends a request to the server via a special E-mail address - a command to subscribe to the required teleconference.

As new articles enter the conference, the server will send
send them to your mailbox.

File Transfer Protocol

Another Internet resource is FTP, a file transfer protocol that allows a user to copy files from one computer connected to the Internet to another. The FTP software is divided into two parts, one running on the computer that contains the files (FTP server) and the other on the computer that needs the files (client). A further development of this file transfer method is Telnet, which allows you to connect to a remote computer as if you were working directly with it.

To make it easier to find files on the Internet, there is a menu-driven access system called Gopher. The development of such programs makes it much easier for users to find the information they need.
tions.

World Wide Web (WWW)

Along with the e-mail address (E-mail), Internet addresses of the form www.mvd.ru (URL-address) are addresses of servers in the WWW system. Having connected to the Internet and accessed the specified address, we will see on the computer screen the first document representing the initial page (Web page). It may contain links to other documents,

pages, graphic elements (drawings and photographs) containing sound and video fragments. To clarify here, a Web page is a kind of document stored on a computer connected to the Internet. This document is in a special format (HTML format).

A computer connected to the Internet that stores Web pages is called a physical Web server or Web site. Web pages on the server are grouped into folders according to the characteristics of the content. The collection of such folders forms a virtual Web server, or Web site (simply called "site").

Chat on the Internet (Chat)

It is a way of communicating by typing text that the user sends to some area of the network called a channel.
(Channel). This text becomes available for reading to everyone who is currently

ment joins this channel. In other words, Chat enables direct conversation through text on the display.

A further development of the method is the possibility of a direct conversation on the principle of a telephone.

Internet software

When working on the Internet, some tasks are solved directly on your computer using client software.

Distinguish between mail client programs for working with electronic mail and client programs for working on the WWW. To work with e-mail and the World Wide Web (WWW), we can name Microsoft Outlook Express and Microsoft Internet Explorer. To designate the latter, the term "browser", "navigator", "viewer" is used.

INTERNET ADMINISTRATIVE DEVICE

We can only talk about some elements of the management and regulation of the Internet, since participation in the Network is voluntary and there is no single host and centralized management.

In essence, we are talking about a set of networks that obey some general rules, which are determined by the characteristics of the technology used, government regulation and economic factors.

The Internet is a hierarchical structure, each of whose networks is responsible for traffic (transmission time), for transferring information to a higher level network, and for its own funding.

Let us point out the following components of the management and regulation of the Internet in the world community.

Internal rules of networks included in the Internet. In practice, the notion of regulation with regard to different sources of funding has led to the formulation of Accepted Use Policy (AUP) for networks with budgetary support.

Public regulation of the Internet. The main body that regulates the Internet is the Internet Society (ISOC) - a public organization, its financial basis is the contributions of participants and donations from sponsors. ISOC holds annual conferences (INET), publishes information materials (Internet Society News), maintains information servers.

The technical committees that maintain the standards systems on which the entire network is based are:

Commission on the architecture of the Internet (Internet Architecture Board - IAB), its main task is the development and execution of standards for the interaction of ready-made information systems.

The IETF (Internet Engineering Task Force) is directly responsible for developing the protocols and architecture of the Internet.

IRTF (Internet Research Task Force) is a research unit for the development of promising Internet technologies.

IANA (Internet Assigned Numbers Authority) - maintains a registry of all identifiers associated with Internet protocols, maintains storage for up to documents.

CERT (Internet Computer Emergency Response Team) - specializes in network security issues.

RIPE (Reseaux IP Euopeens) - coordination of network development in Europe, is engaged in the distribution of IP numbers, develops technical types of routing services and domain name systems.

InterNIC - network information center, controls Internet resources (IP numbers, domain names, help desks and document repositories).

MERIT information center - specialized information center tion, routing, address space optimization, etc.

A branch of ISOC – “RAINET” has been established in Russia. Within the framework of the Association of Documentary Telecommunications in Russia, the Internet Committee will perform the functions of certifying Internet operators.

The functions of administering the RU domain, assigning IP numbers, and maintaining the document repository are performed by the Russian Research Institute for the Development of Public Networks (RosNIIROS).

MAIN LAWS RELATED TO THE DEVELOPMENT OF THE INTERNET IN RUSSIA

Here are the main laws of the Russian Federation that regulate the use of the Internet in Russia, their commentary is contained in the literature on legislation in the field of informatization:

- Law of the Russian Federation "On the Mass Media" No. 2124-I;
- Patent Law of the Russian Federation No. 3517-I;
- Law of the Russian Federation "On the legal protection of programs for electronic computers machines and databases” No. 3523-I;
- Fundamentals of legislation on the Archival Fund of the Russian Federation and archives No. 5341-I;
- Law of the Russian Federation "On Copyright and Related Rights" No. 5351-I;
- Law of the Russian Federation "On State Secrets" No. 5485-I;

- Federal Law "On the obligatory copy of documents" No. 77-FZ;
- Federal Law "On Communications" No. 15-FZ;
- Federal Law "On Information, Informatization and Information Protection" No. 24-FZ;
- Federal law "On participation in the international information exchange" No. 5-FZ.

Directions for the development of the Internet in Russia are defined in a number of regulatory state documents, for example, in the Concept of State Information Policy, approved at a meeting of the Permanent Chamber for State Information Policy of the Political Advisory Council under the President of the Russian Federation on December 21, 1998.

In connection with the development of the Internet, they are subject to addition and change from the branch of legislation: on information resources; on the exercise of the right to search, receive, transfer and use information; on the creation and application of communication systems and information systems, their networks, other information technologies and means of their support; on the protection of information in information systems.

In this area, the preparation and adoption of normative acts, on aimed at solving the problems of applying these norms in practice, creating effective control mechanisms. In Russia, there are electronic legal databases, access to which is open on the Internet.

STANDARDIZATION ON THE INTERNET

The concept of creating a global information infrastructure is to pool resources in order to ensure the interconnection and interaction of all users to obtain information in real time. The fundamental problems here are: the development of a legal framework; ensuring universality of services; creating conditions for unhindered access to networks and services; accounting for intellectual property rights; granting equal rights. International agreement should be reached on the general principles of network access and interconnection.

One of the most important is metrological support, which is understood as the introduction and application of scientific and organizational foundations, technical means, rules and norms necessary to achieve the unity and consistency of measurements. The legal basis for such security are the laws:

- “On information, informatization and information protection”;
- "On ensuring the uniformity of measurements";
- "On energy saving";
- "On consumer protection";

- "On standardization";

Decrees of the Government of the Russian Federation:

- No. 100 dated February 12, 1994 “On the organization of work on standardization, ensuring measurement unity, certification of products and services”;

- No. 121 dated February 12, 1993 “On measures to implement the state program for the transition of the Russian Federation to the system of accounting and statistics accepted in international practice in accordance with the requirements for the development of a market economy”;

- No. 226 dated February 8, 1996 “On state accounting and regulation of databases and data banks".

In addition, there are a number of state programs in this area.

The development and observance of general norms and rules makes it possible to ensure the proper quality of telecommunication services.

STATE CONTROL IN THE RUSSIAN INTERNET SEGMENT

Art. 2 of the Federal Law "On Communications" defines telecommunication networks and technological systems that provide one or more types of transmissions: telephone, telegraph, facsimile, *data transmission between computers,* television, sound and other types of radio and wire broadcasting.

The SORM system is intended for carrying out operational-search activities on telecommunication networks used to provide data transmission services and access to the worldwide computer network Internet. Thus, there is a real possibility of access that violates the constitutional rights of citizens to e-mail, Web sites, and so on.

The federal law “On operational-search activity” dated August 12, 1995 (Article 1) defines this activity as carried out openly and secretly by authorized operational units within their competence by conducting operational-search activities in order to protect life and health , rights and freedoms of man and citizen, property, ensuring the security of society and the state from criminal encroachments.

From this law, we can conclude that:

1. Operational-search activity (ORA) may be carried out only by those bodies and operational units to which such a right is granted by law.

2. The operational-search activity can only be carried out in order to protect citizens, society in general and the state from criminal encroachments.

3. The content of the operational-search activity is made up of operational-search measures.

In the law, the circle of bodies entitled to conduct an operational-search activity is formulated van is exhaustive and can only be supplemented by federal law.

Private detectives are prohibited from carrying out operational-search measures
acceptance.

Protection against criminal encroachments can be considered as the main,
but not the only purpose of the OSA.

Content of Art. 2 and paragraph 4.2 of Art. 7 of the Law on OSA indicates that its tasks
are:

- detection, prevention, suppression and disclosure of crimes, and
as well as the identification and identification of persons who prepare them, perform and
committed;

- implementation of the search for persons hiding from the bodies of inquiry, investigation and
court, evading criminal punishment, missing citizens
Dan;

- obtaining information about events or actions that create a threat
security of the Russian Federation.

Bodies carrying out operational-search activity are also entitled to collect data for
making decisions:

1) on access to information constituting a state secret or to work related to the operation of facilities that pose an increased danger to human life and health, as well as to the environment;

2) on admission to participation in the operational-search activity or to the materials obtained as a result of those of its implementation;

3) on establishing or maintaining cooperation relations with a person
in the preparation and conduct of operational-search activities;

4) on the issuance of permits for frequent detective and security work
ness;

5) to ensure the security of the bodies carrying out the operational-search activity.

The law on the OSA, which allows and directly provides for the possibility of intrusion into the sphere of human rights and freedoms, including constitutional rights (Chapter 2 of the Constitution of the Russian Federation), restrictions on these rights, cannot go beyond the limits of the Constitution. The legal basis for such a restriction is part 3 of Art. 55 of the Constitution of the Russian Federation: “The rights and freedoms of a person and a citizen may be limited by federal law to the extent necessary to protect the foundations of the constitutional standing, morality, health, rights and legitimate interests of others, to ensure the defense of the country and security states".

The task of the law is to establish limits on the limitation of rights and not
go beyond these limits.

It is the establishment of such limits, the consolidation of a system of guarantees for the legitimacy of the OSA - the most important element of the law regulating this activity.
ness.

Art. 7 of the Law on ORD lists the grounds for conducting operational search activities.

Contained in Art. 1 of the Law on the operational-search activity, the definition of operational-search activity reduces all its content to the conduct of operational-search activities. They are characterized as reconnaissance measures using special tactical and technical means and methods. A certain idea of the essence of operational-search measures is given by their list, Art. 6 of the Law on ORD, which can be amended and supplemented only by federal law.

These, in particular, include: control of postal items, telegraph and other messages and removal of information from technical communication channels. In the course of carrying out operational-search activities, information systems are used, as well as other technical and other means that do not harm human life and health and do not harm the environment.

environment.

Departmental regulations or agreements between bodies determine the procedure for carrying out activities and are carried out using the operational and technical forces and means of the federal security service.
news and internal affairs bodies.

In Art. 10 of the Law on ORD states that information systems can be created and used to solve the tasks assigned by the Federal Law.

Topics.

Federal Law No. 40-FZ "On the Bodies of the Federal Security Service" in Art. 15 part 4 provides that “individuals and legal entities in the Russian Federation providing postal services, telecommunications of all types, including telecode, confidential satellite communications, are obliged, at the request of the federal security service, to include additional equipment and software in the hardware means, as well as to create other conditions necessary for the implementation of operational and technical measures by the FSB bodies.

After the adoption of these laws by the FSB bodies, practical steps were taken to introduce the SORM system (the system of operational-search measures) on the telecommunication networks of Russia.

This activity is reflected in the following regulations

tach:

• orders of the Ministry of Communications of the Russian Federation

- Order No. 25 dated February 18, 1997 “On the procedure for interaction between communication organizations in the implementation of technical means of the system of operational search activities on Russian telecommunication networks”; - (updated) Order No. 135 of January 8, 1995 “On the procedure for introducing a system of technical means to ensure operational-search activities at electronic exchanges in the territory of the Russian Federation” (as amended by Order No. 25 of February 18, 1997);

- Order No. 145 dated December 30, 1996 “On the procedure for conducting certification tests of technical means of SORM”;
- Order No. 9 dated January 31, 1996 “On the organization of work to ensure operational-search activities on primary communication networks”;
- Letter dated November 11, 1994 No. 252-u “On the procedure for introducing SORM on the VSS of the Russian Federation”;
- Order of June 24, 1992 No. 226 "On the use of communications to ensure operational-search activities of the Ministry of Security of the Russian Federation" (as amended on September 13, 1995).

• Decree of the Government of the Russian Federation No. 770 dated July 1, 1996 “On approval of the regulation on licensing the activities of individuals and legal entities not authorized to carry out operational-search activities related to the development, production, sale, acquisition for the purpose of sale, import into the Russian Federation and the export outside of it of special technical means intended (designed, adapted, programmed) for secretly obtaining information in the process of carrying out operational-search activities.

• Decree of the President of the Russian Federation of 09.01.1996 No. 21 “On measures to streamline the development, production, sale, acquisition for the purpose of transfer, import into the Russian Federation and export outside it, as well as the use of special technical means intended for covert obtaining information."

Concerning the adoption of two federal laws - on the Investigative Activities and the Federal Security Service a discussion unfolded, which was reflected in the materials of reports at conferences, round tables, and legal literature. If we summarize all points of view, then they objectively boil down to two: we must fight against crime.
and all restrictions negatively affect this process, tie hands; the use of such systems leads to the totalitarianism of the special services.

The Orders of the Ministry of Communications of Russia dated December 29, 1999 No. 2, the State Telecom of Russia dated July 9, 1999 No. 15, the State Communications Committee of Russia dated April 20, 1997 No. 70 and dated March 27, 1999 No. 47 formulate technical requirements for the system of technical means to ensure the functions of operational-search activities at variou communication networks.

The procedure for introducing a system of technical means to ensure operational-search activities on telephone, primary and wireless communication networks and personal radio calls is regulated by the order of the Ministry of the Russian Federation for Communications and Informatization dated July 25, 2000 (as amended on October 25, 2000) . At the same time, it should be borne in mind that operational-search activities related to wiretapping and removing information

from communication channels are carried out by the FSB or the Ministry of Internal Affairs of Russia in the manner prescribed by Art. 6 of the Law on OSA and Decree of the President of the Russian Federation No. 891.

The carrying out of operational-search measures that restrict the constitutional rights of a person to the secrecy of correspondence, telephone conversations, telegraph and *other messages* transmitted via electric and postal networks, as well as the right to inviolability of the home, is allowed on the basis of a court decision and information:

- about the signs of a prepared, committed or committed pro
a wrongful act, on which the production of a preliminary investigation is mandatory;

- about persons preparing, committing or having committed an unlawful act, for which the production of a preliminary investigation is obligatory
effectively;

- about events or actions that pose a threat to the security of the Russian Federation.

Control over operational-search activities is carried out by the President of the Russian Federation, the Federal Assembly of the Russian Federation, the Government of the Russian Federation within the limits of their powers.

Prosecutorial supervision over the operational activities is carried out by the Prosecutor General and authorized prosecutors.

The Law on Investigative Activities does not contain exhaustive instructions regarding the powers of the prosecutor in the field of supervision over the rule of law in operational-search activities, the clearly formulated in the Law should include:

- the right to request and verify operational documents;

- the right to give instructions on the conduct of operational-search measures in cases that are in the proceedings of the investigator or the prosecutors themselves.

Effective prosecutorial supervision and departmental control are
the guarantor of the legality of this activity.

In practice, Internet users have already begun to use various methods of protection against SORM, such as:

1. *Steganography.* Its meaning is to hide data in the body of some kind of graphic or sound object.

2. *Graphic.* This method is similar to the first. Its meaning lies in the transfer of textual information in graphical form. Many graphics programs and editors allow you to write text in an image, you just need to make a black and white picture and send a message in it.

3. *Archival.* It consists in archiving (compressing) a text file.

4. *Text.* It involves changing words. For example, you can write the words “terrorist attack” in the form 1terrorist2, “(ter)act”, etc.

5. *Brute force attack.* Consists of including in each message
anyone keyword.

But, of course, the main method of protection is the use of powerful cryptographic tools.

LEGAL NATURE OF THE INTERNET

What is the Internet - a subject of law entering into legal relations with its users, or an object of legal relations, legal regulation?

As you know, there is no organizational structure that acts as the owner or owner of this computer network. The Internet does not have its own separate property, its resources are owned by different entities: communication channels - to telecommunications companies; computer equipment – to users; information to its owners; backbone network support equipment and software to their owners.

The Internet cannot have any independent rights and bear obligations; behind each legal relationship that arises in the process of working on the Internet is a specific legal entity: when connecting to the network -
provider, when buying goods through the network - the seller organization, when paying for a transaction through the network - a specialized financial company (virtual bank).

Therefore, the Internet is neither a registered organization
tion, nor a legal entity.

In the legal literature, it is proposed to consider it as a subject
rights of *a new type* as an organizational unity, introducing for this a new concept of the “plurality of the subject composition” of the Internet, and endowing the latter with the characteristics of a new subject of law.

Such a distinction seems unreasonable, since the organization
Memberships entering into legal relations independently exercise their rights and bear obligations, and there is no need to combine them into such a “multiple subject”.

Thus, the Internet is not a participant in legal relations, a subject of rights. Is the Internet the subject of legal relations, an object of law?

The Internet as a computer network does not create new objects and goods, but only provides opportunities for their creation, placement and access to network users.

The relationships that arise in connection with the functioning of the Internet as a network of computers relate more to the sphere of technical standards and practices.
are not technically of a legal nature.

Let's consider examples of legal relations regarding work on the Internet: when a user (client) is connected to the network, selling software, hardware for this, renting communication channels, theoretically developed concepts are applied - a contract of sale, ownership of the goods being sold, a contract lease, the exclusive right to pre-

delivered software. Network purchase and sale, payment on the network using conditional electronic money, despite the subject and specifics of settlement relations, has an analogy with non-cash payments with credit cards.

The foregoing does not exclude in the future the appearance on the Internet of some phenomena that will require specific regulation within the industry.
vogo legislation.

If the Internet is neither a subject nor an object of law, then perhaps there is no legal specificity of its functioning?

This is not true. The legal peculiarity of relations on the Internet consists in a specific way of exercising the rights and obligations of network users. With the advent of network services, a new nature of the relationship between
people and organizations.

The vast majority of transactions on the network are between persons physically located in different countries, and it is not clear which law is subject to
application.

Thus, we can talk about a specific way of the emergence of legal relations between individuals and legal entities through a computer network.

The global nature of the World Wide Web creates problems in defining
what law enforcement bodies should consider disputes on legal relations.

Here are two examples from available sources:

1. Purchase of an electronic version of the aircraft parts catalog.

The buyer is a French airline.

The seller is an American firm in the state of Nevada.

The information is located on a server in England, owned by the English
service provider company.

Settlements are made through a virtual bank in Austria, which serves an English server.

The transaction is concluded in a formulary form proposed by the supplier's firm. There is no reference to the right in the formulary contract.

Deadline - immediately, after the end of the transfer of funds
funds to the seller's account.

Method of execution - providing the buyer with a password to access the database data containing information.

Violation of the obligations of any of the parties requires the solution of a set issues: on the jurisdiction and jurisdiction of the dispute, the application of conflict of laws rules and proper substantive law. What is considered the place of the act, with what law is this legal relationship connected? Who should be the defendant? Who will enforce the judgment if it is issued?

2. In one of the provinces of Canada, it is forbidden to place advertisements in the media and the media with a proposal to adopt a foster child.

Does the said province have jurisdiction over the posting of such advertisements on the Internet through servers located in other countries of the world or other provinces? Thus, the Internet, having no territorial boundaries, allows access to information, the dissemination of which is prohibited in any other way.

LEGAL ISSUES OF USE DOMAIN NAMES ON THE INTERNET

When creating the domain name system, it was not taken into account that the world has long had means of individualization in the form of trademarks and trade names. The use of trademarks and trade names has found its legal basis in numerous international agreements and national laws. Behind these names are a well-established business reputation and huge amounts of money. Trademark owners, owners of companies with brand names are not satisfied with the existence on the Internet of names that coincide with their names, but do not belong to them. The use of such a network address means a lot for the Internet site and for its further development.

There are two groups of plagiarists, the first register network addresses for personal use, the second - for sale to an interested buyer. For example, Compaq purchased a $3 million domain for its AltaVista search engine.

As the popularity of the Internet grows, speculation and abuse associated with Internet addresses may become more widespread. In addition to conflicts over the use of registered trademarks and trade names, there are already cases of disputes over the use of city names and the names of famous people.

The main feature of domain name registration is that it gives the owner of the address the exclusive right to use and dispose. No one can create and publicly operate a domain name on the web that is identical to one already registered.

The reason for this is the unique system of domain name hierarchies, being a supranational entity and the backbone of the Internet.

In the practice of arbitration courts, the problem of protecting the rights of trademark owners when using them in a domain name has already arisen. This is explained by the wide commercial use of Internet resources to attract buyers of goods and services.

Trademark owners demand recognition of their exclusive right to use a designation in a domain name when doing business on the Internet and oppose the use of such names by other economic entities.

Publications show that the judicial practice on this issue in Russia has not yet developed. One can only refer to the Decree of the Presidium of the Arbitration Court of the Russian Federation on the claim of the KODAK corporation against the entrepreneur without the formation of a legal entity Grindul about the prohibition to use the trademark "kodak" in the domain name of the respondent's Internet page. As a third party, RosNIIROS was involved in the case as an authorized body that registered the domain name.

In world practice, there are approaches to solving the problem of protecting trademarks in case of bad faith registration of a domain name in Inter
no.

It can be stated that there is no special legislation on the protection of intellectual property on the Internet in any state. Protection
rights of trademark owners is based on special laws
new on trademarks, where the exclusive right to use it for commercial purposes is secured. A violation is the use of a similar mark without the permission of the owner in relation to identical or similar goods or services, if this creates a danger (possibility) of their confusion.

The judicial practice of foreign countries recognizes a violation of the rights of the trade mark dealer's unauthorized use of such domain names (Germany - epson.de domain name case, France - champagneceleroales, United Kingdom - nearlesandspencer).

International conventions define the basic principles for the protection of intellectual property rights, including a trademark when it is used on the Internet:

- Paris Convention for the Protection of Industrial Property;
- Agreement on Trade-Related Aspects of Intellectual Property Rights.

Thus, according to international law, actions that lead to confusion of goods and services infringe trademark rights, in particular,
related to using it in a domain name.

The World Intellectual Property Organization presented a report on the issue of registration of domain names on the Internet, which reflects the
recommendations to national authorities.

The need to protect the rights of trademark owners on the Internet
when registering domain names occurs when the following conditions are present:

- a designation is used in a domain name that is similar or identical to a trademark in relation to identical goods or services, creating
danger of mixing;
- the domain name is used for commercial purposes;

- the permission of the trademark owner for use has not been obtained, the owner of the domain name itself does not have legal rights in relation to this
domain name.

The Criminal Code of the Russian Federation has Art. 180 "Illegal
misuse of a trademark", which provides for punishment in the form of a fine or compulsory labor or corrective labor for up to two years. The jurisprudence under this article is small, and it does not highlight the illegal use of domain names for commercial purposes. In just a year, about 500 crimes are registered under this article, about 100 people are identified, about 50 people are convicted.

There have been several lawsuits in the United States in which plaintiffs demanded recognition of their rights to domain names if they matched their own trade names. The suits were satisfied, but as it was said
above, special legislation recognizing exclusive rights to
domain names, no.

At the same time, now the only body dealing with registration and
taking into account domain names, requests proof of ownership of a trade
name to the person who is trying to register that name.

LEGAL REGULATION OF ELECTRONIC DOCUMENT FLOW

As a result of the creation of global computer networks, a real revolution took place in the field of information transmission. With the use of remote access tools, auctions began to be held, settlements with banks were carried out, customs declarations were drawn up, etc.

In these cases, we are talking about electronic document management (EDM) in the narrow sense, when there is an electronic transfer of data structured in accordance with agreed standards. These requirements are met by banking systems, automated trading systems, where the authenticity of a document is automatically checked, its compliance with

standard.

In a broad sense, EDI is any exchange of computer data between different entities (for example, private correspondence using e-mail).

Recently, a number of normative acts have been adopted in our country that regulate relations related to the use of EDI systems. The Civil Code of the Russian Federation allows the use of electronic documents certified by an electronic digital signature when making transactions in all cases and in the manner prescribed by
reviewed by law and other legal acts and agreements of the parties for the study

except for those when there are special requirements for the form of a document (special paper, mastic printing, etc.).

In paragraph 3 of Art. 5 of the Law "On Information, Informatization and Protection of Information" states: "The legal force of a document stored, processed and transmitted using automated information and telecommunication systems can be confirmed by an electronic digital signature." The term "electronic digital signature" (EDS) is enshrined in Art. 160 of the Civil Code of the Russian Federation. EDS is designed to ensure the authenticity, integrity and authorship of documents. EDS rigidly links the content of the document (or part of it) and the signer's secret key into one whole. Such a document can be transmitted through any channels, incl. open without fear of falsification.

Widespread use of EDS, ensuring its authenticity, and hence legal force, is possible under certain conditions: activities for the development of EDS are subject to licensing, and the systems themselves are subject to certification.

The probative value of a document signed with an EDS is confirmed by the Letter of the Supreme Arbitration Court of the Russian Federation dated August 19, 1994 “On Certain Recommendations Adopted at Meetings on Judicial Arbitration Practice”. The Letter states that in the event of a dispute about the availability of documents signed with an EDS, the parties must present an extract from the agreement, which specifies the procedure for reconciling disagreements. If there is no such procedure, and one of the parties disputes the existence of a document signed with an EDS, then the arbitration court has the right not to accept documents signed with an EDS as evidence.

INTELLECTUAL PROPERTY AND THE INTERNET

A huge number of works are placed on the Internet without the consent of the copyright holders. Increasingly, there is a question about the observance of copyright on the World Wide Web.

It would seem that if there are relevant rules of law, the problem should not arise - when placing a work on the Internet,
the right of the author to authorize or prohibit the use by making it available to the public by cable or similar means.

However, questions of practical punishment of the violator will probably always arise. Thus, there was information in the press about the refusal of the author, whose work was posted on the Internet, in a lawsuit on the grounds of the absence of copyright infringement. In contrast to this, “Shame Boards” are created on the Web, containing information about persistent violators. Sometimes this results in disconnection of some providers from the Internet.

In many foreign countries, they follow the path of collecting in organizations some second royalties and then its distribution to help young or needy creative workers, for the payment of scholarships, prizes. In small Norway, such a fee reaches 20 million dollars. in year.

In total, the legal service of the Russian Authors' Society annually conducts up to 500 conflict cases in various areas of copyright infringement. The terms of consideration of cases are delayed and by the time the court decision is executed, there are no financial resources on the accounts of the violator.

The placement of objects protected by copyright on the Internet does not change the existing provisions on their protection, which are declared in two federal laws "On the legal protection of programs for electronic computers and databases" and "On copyright and related rights
wah."

The Internet Presents Opportunities for Uncontrolled Races
distribution of such objects of intellectual property.

The law requires that all users of the Network, posting information on it, first obtain the consent of the official owners to reproduce the information. But this does not always happen, and the number of conflict situations is rapidly increasing, which finds its explanation in the existing approach to the problem of legal regulation on the Internet, which promotes absolute freedom. This approach goes back to the network tradition of free exchange of information, which states that the accepted citation of other people's ideas hinders acquaintance with the results of scientific work.

In connection with the emergence of legal conflicts, the question arose of providing evidence for the Internet.

Leaving aside the traditional methods of proving copyright, and in this area there are various types of expertise, we point out that the Internet has developed modern ways to protect intellectual property rights.

It is possible to protect copyrights on the Internet by writing information from Web pages to a laser disc and then depositing it in a repository - a Web depository.

To do this, a person submits a statement of authorship indicating the work, its description, the date of acceptance is fixed, and a certificate of acceptance of the object is issued. The date of deposit will be evidence that at the specified time the applicant was in possession of a copy of the object.

In some segments of the Web, the method of protection in the form of "watermarks" in electronic copies of photographs and images is effectively used. With the help of special software, a hidden code of a certain format is embedded in files. At visual examination, it is not visible

coded designations - the name of the author, the year of publication, the sign of authorship. Watermarks are resistant to any operations on the image - compression, resizing, format, color. With the use of certain software, it is possible to prove that the files contain additional information that points to the person who recorded it. Similarly, they try to protect textual information.

Such protection systems are beginning to spread in Russia. A legal problem in the field of copyright has arisen on the Internet, which has no analogy in the real world. On Internet sites, you can, using the mechanism of hyperlinks, address other sources of information on the Web. But when linking to a source of information, it is necessary to take into account the legitimate interests of the resource owner, provide full information about them and correctly address them.

Thus, there is a known dispute between Ticketmaster and Microsoft, which put a link with the caption "sale of tickets" and addressed to the Ticketmaster publication, where the ticket order form was located. This link gave the user the impression that the order form and service belonged directly to Microsoft. After the dispute is resolved, Microsoft is liquidated

caused violations.

To organize access to information on the Internet, a system of special windows on the browser screen (frames) is used. In these windows, you can show other people's pages. This is what Total News did by opening the resources of the Washington Post, Reuter, etc., which led to the need to restore the legal rights of the owners of the resources.

The specifics of legal relations on the Internet is manifested in the fact that the use of special technological support (computers, telecommunications, software products) should provide for each participant in legal relations a clear, fixed expression of will and authorization.

tion.

Let us add to the above that non-cash methods of payment via the Internet have now begun to be used, the concepts of “electronic money" as conditional units of account equivalent to "real" money on the user's account with the processing company ("virtual bank") that makes settlements under the transaction.

Such settlement methods are applicable only to transactions carried out on the Web. So far, the requirements that should be made to "virtual banks" remain open. Relations regarding settlements in the Network have the same essence as money relations, and their specificity is manifested in the form of their implementation.

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